



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

MGE/153761

PRELIMINARY RECITALS

Pursuant to a petition filed November 25, 2013, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Waukesha County Health and Human Services in regard to Medical Assistance, a hearing was held on December 19, 2013, at Waukesha, Wisconsin.

The issue for determination is whether Waukesha County Health and Human Services (the agency) correctly denied Petitioner's application for SLMB benefits.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By: Lynnae Boyenga, Fraud Investigator
Waukesha County Health and Human Services
514 Riverview Avenue
Waukesha, WI 53188

ADMINISTRATIVE LAW JUDGE:

Mayumi M. Ishii
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Waukesha County.
2. On November 25, 2013, the agency sent Petitioner a notice indicating that his November 22, 2013 application for SLMB benefits was denied because he was over the income limit. (Exhibit 2)

3. Petitioner filed a request for fair hearing that was received by the Division of Hearings and Appeals on November 25, 2013. (Exhibit 1)
4. Petitioner's income as of December 1, 2013, was \$1434.00. Prior to this it was \$1539.00. (Exhibits 2, 3 and 5)

DISCUSSION

Medicare is the health insurance program administered by the *Federal Centers for Medicare & Medicaid Services (CMS)* for people over 65 and for certain younger disabled people. Medicare is divided into two types of health coverage. Hospitalization Insurance (Part A) pays hospital bills and certain skilled nursing facility expenses. Medical Insurance (Part B) pays doctors' bills and certain other charges. Medicaid Eligibility Handbook (MEH), § 32.1.

As Medicare is an insurance program, it charges premiums. *Wisconsin* Medicaid pays some or all of the Medicare premiums for those who qualify (Medicare beneficiaries). There are four types of Medicare beneficiaries and benefits differ from category to category:

1. Qualified Medicare Beneficiary (QMB),
This pays Medicare Part A and B premiums and Medicare deductibles;
2. Specified Low-Income Medicare Beneficiary (SLMB),
This pays for Medicare Part B premiums;
3. Specified Low-Income Medicare Beneficiary Plus (SLMB+) a/k/a Qualifying Individuals – 1 (QI-1),
This pays for Medicare Part B premiums;
4. Qualified Disabled and Working Individuals (QDWI).
This pays for Medicare Part A premiums.

MEH, §§ 32.1.1 and 32.1.3

A person who is receiving SSI and is a MA recipient is also eligible for QMB/SLMB/SLMB+ benefits, *if* the applicant also meets the financial criteria, i.e., income and asset eligibility limits. Wis. Stat. §49.47(1)(e), *MEH*, §§ 32.2-32.5.

The category of eligibility depends on the recipients' income. *MEH* § 32.1.3.

Income is calculated as follows:

\$ Earned income
 - \$65 and ½ earned income deduction
 + Unearned income (social security income, etc.)
 - Special exempt income as defined in *MEH* §15.7.2 (i.e. child support)
- \$20 standard deduction
 = Net income used to determine QMB/SLMB/SLMB+/QDWI eligibility

When counting social security income, use gross social security income. Gross social security income:

1. Of a self-payer = the social security check amount + Medicare premiums s/he has paid.
2. Of someone for whom the State is paying the premiums = the social security check amount.

Disregard the COLA (cost of living adjustment) increase for the current year until the month after the new federal poverty limits become effective.

MEH §§ 32.2-32.5

Petitioner did not dispute that his income was \$1539.00, then decreased to \$1434.00 as of December 1, 2013. As applied to Petitioner, the calculation of income is as follows:

Zero earned income
No \$65 and ½ earned income deduction
+\$1434.00 unearned income from Social Security
-\$0 special exempt income for child support
-\$20.00 Standard deduction
<hr/>
= \$1414.00 Net income

The income limit for the SLMB program is at least 100% of the Federal Poverty Level (FPL), but less than 120% of FPL. *MEH § 32.3.2* As of November 2013, 100% of FPL was \$957.50 per month, for one person and 120% of FPL was \$1149.00 per month, for one person. *MEH § 39.5*

Petitioner's net income of \$1414.00 falls outside the program limits of \$957.50 to \$1149.00 for the SLMB program. Consequently, Petitioner was not eligible for the SLMB program.

Petitioner's net income also falls outside the program limits of the SLMB+, which are 120% of FPL to 135% of FPL (\$1149.00 to \$1292.63 per month for one person.) *MEH §§ 32.4.2 and 39.5* So, Petitioner is not eligible for that program, either.

It should be noted that Petitioner also wanted to appeal the termination of his SLMB benefits effective September 1, 2013. However, that appeal needed to be filed within 45 days of the September 1, 2013 date of action (in other words by October 17, 2013). Regrettably, Petitioner's appeal was not filed until November 25, 2013, so his appeal is untimely and there is no jurisdiction to address the termination of his benefits. *See Wisconsin Stat. § 49.45(5); Income Maintenance Manual § 3.3.1.* Even if jurisdiction did exist, I would find that the agency acted correctly, because during the time in question, Petitioner's Social Security Benefits were even higher than they were in December 2013, and as such, Petitioner was over the income limit for the SLMB program.

CONCLUSIONS OF LAW

The agency correctly denied Petitioner's application for SLMB benefits.

THEREFORE, it is

ORDERED

That the petition is dismissed.

REQUEST FOR A REHEARING

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found at your local library or courthouse.

APPEAL TO COURT

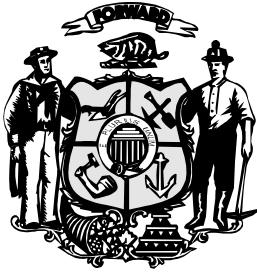
You may also appeal this decision to Circuit Court in the county where you live. Appeals must be served and filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson Street, Room 651, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Milwaukee,
Wisconsin, this 4th day of February, 2014.

\sMayumi M. Ishii
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on February 4, 2014.

Waukesha County Health and Human Services
Division of Health Care Access and Accountability